

NCA 10-211

CLASSIFICATION: #22. HEALTH & SAFETY

A LAW OF THE MUSCOGEE (CREEK) NATION ENACTING A LAW REQUIRING SEX OFFENDER REGISTRATION

Be it Enacted by the National Council of the Muscogee (Creek) Nation;

SECTION ONE. NEW LAW. The following new law shall be codified in Title 22 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Codification Committee is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2003 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

CHAPTER 10. SEX OFFENDER REGISTRATION CODE

SUBCHAPTER 1. GENERAL MATTERS

§10-101. Title

This Code shall be known as the Sex Offender Registration Code.

§10-102. Purpose

The purpose of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) pursuant to Section 127 of SORNA and the Nation's election to assert jurisdiction pursuant to SORNA, by Resolution TR-07-069, June 30, 2007, and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

§10-103. Need

The Muscogee (Creek) Nation finds that sex offenses are increasingly a world-wide problem and that habitual sex offenders are likely to migrate away from jurisdictions that have enacted sex offender registration requirements to jurisdictions that have not. This code will help eliminate these disturbing crimes and prevent outsiders from preying upon tribal citizens.

§10-104. Creation of Registries, Registration required

A. Sex Offender Registry. There is hereby established a sex offender registry, to be administered by the Lighthouse, pursuant to the provisions of this Code, as amended.

B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Lighthouse shall maintain and operate pursuant to the provisions of this Code, as amended.

C. Any person who resides, is employed, is a student, or visits, within the jurisdiction of the Nation or otherwise on property owned or regulated by the Nation, who has been convicted of a sex offense is required to register as provided in this Chapter.

SUBCHAPTER 2. TERMINOLOGY AND COVERED OFFENSES

§10-201. Definitions

The Definitions below apply to this Code:

A. “Convicted” An adult sex offender is “convicted” for the purposes of this Code if the sex offender has been subjected to penal consequences based on the conviction, whether upon a verdict, or plea of guilty or nolo contendere, or receiving a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a sex offense, however the conviction may be styled, or found not guilty or not responsible by reason of mental disease or defect for applicable sex crimes. A juvenile offender is “convicted” for purposes of this Code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either A. or B of Title 14, § 2-324), or was an attempt or conspiracy to commit such an offense.

B. “Foreign Conviction” means one obtained outside of the United States.

C. “Employee” means every person in the service of an employer, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations, whether paid or unpaid, any person who would be an independent contractor under Internal Revenue Service law and regulations that are working more than one day.

D. “Immediate” and “immediately” means within three (3) business days.

E. “Imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal “jail”. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of “house arrest”.

F. “Jurisdiction” means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any federally recognized Indian tribe.

G. “Minor” means an individual who has not attained the age of 18 years.

H. “Photograph” means an image created by light falling on a light-sensitive surface, usually photographic film or an electronic imager such as a CCD or a CMOS chip.

I. “Reside” means the location of the individual's home or other place where the individual habitually lives or sleeps. This includes all residences where the individual may spend more than four hours per day for 30 days in any 180 day period. This does not include school or employment locations.

J. “School” means either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education. It does not include remote learning situations such as correspondence or online class unless the person regularly participates in person at a location within Muscogee (Creek) Nation jurisdiction.

K. “Sex offense,” except as limited by Subparagraph 6 or 7, means a conviction for:

1. A criminal offense that has an element involving a sexual act or sexual contact with another;
2. A criminal offense that is a “specified offense against a minor”. The term “specified offense against a minor” means an offense against a minor that involves any of the following:
 - a. An offense (unless committed by a parent or guardian) involving kidnapping.

- b. An offense (unless committed by a parent or guardian) involving false imprisonment.
 - c. Solicitation to engage in sexual conduct.
 - d. Use in a sexual performance.
 - e. Solicitation to practice prostitution.
 - f. Video voyeurism as described in Title 14 §2-321.
 - g. Possession, production, or distribution of child pornography.
 - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
 - i. Any conduct that by its nature is a sex offense against a minor;
 - 3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
 - 4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
 - 5. An attempt or conspiracy to commit an offense described in clauses (1) through (4).
 - 6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
 - 7. Foreign Offenses. A foreign conviction is a sex offense for the purposes of this code/ordinance if it was obtained:
 - a. under the laws of Canada, the United Kingdom, Australia, New Zealand, or
 - b. under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- L. “Sex Offender” means a person convicted of a sex offense.
- M. “Sexual Act” means:

1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

N. “Sexual Contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

O. “Student” means a person who enrolls in, attends, or is an intern, extern, or apprentice at a school.

P. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.

Q. “Sex Offender Registry” means the registry of sex offenders, and a notification program, maintained by Lighthouse.

R. “National Sex Offender Registry (NSOR)” means the national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.

S. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.

T. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.

U. “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in Section 301.

V. “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in Section 302., or who is subject to the recidivist provisions of 302. B.

W. “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in Section 303., or who is subject to the recidivist provisions of 303. B.

X. “Visitor” means a person physically present for any length of time at a Casino, child care facility, school, park, sporting or cultural event, community center, elder nutrition center, and includes volunteers at such places. The Lighthouse may issue regulations regarding registration requirements for visitors.

§10-202. Covered Offenses

A. Tribal offenses. Offenses in Title 14, Chapter 2:

1. §2-317. indecent exposure
2. §2-321. video voyeurism
3. §2-323. sex trafficking of children or by force, fraud, or coercion
4. §2-324. aggravated sexual abuse
5. §2-325. sexual abuse
6. §2-326. sexual abuse of a minor or ward
7. §2-327. abusive sexual contact
8. §2-328. offenses resulting in death
9. §2-341. sexual exploitation of children
10. §2-342. selling or buying of children
11. §2-343. Certain activities relating to material involving the sexual exploitation of minors
12. §2-344. Certain activities relating to material constituting or containing child pornography
13. §2-346. Misleading domain names on the Internet
14. §2-347. Misleading words or digital images on the Internet
15. §2-350. Transportation of a minor for illegal sexual activity
16. §2-351. Coercion and enticement
17. §2-352. Transportation for criminal sexual activity
or an offense in another jurisdiction that has the same elements.

B. Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5):

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),

5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
17. 18 U.S.C. §2423 (Mann Act),
18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

D. Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than Title 14, Chapter 2, §2-324, Aggravated Sexual Abuse, the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including the Nation, that involves:

1. Any type or degree of genital, oral, or anal penetration,

2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
3. Kidnapping of a minor,
4. False imprisonment of a minor,
5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
6. Use of a minor in a sexual performance,
7. Solicitation of a minor to practice prostitution,
8. Possession, production, or distribution of child pornography,
9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
10. Any conduct that by its nature is a sex offense against a minor, or
11. Any offense similar to those outlined in:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. 18 U.S.C. §1801 (video voyeurism of a minor),
 - c. 18 U.S.C. §2241 (aggravated sexual abuse),
 - d. 18 U.S.C. §2242 (sexual abuse),
 - e. 18 U.S.C. §2244 (abusive sexual contact),
 - f. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution), or
 - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

SUBCHAPTER 3. OFFENSE TIER

§10-301. Tier 1 Offenses

A. Sex Offenses. A "Tier 1" offense includes any sex offense that is not a "Tier 2" or "Tier 3" offense.

B. Tribal Offenses. Any sex offense covered by this Code where punishment was limited to one year in jail shall be considered a "Tier 1" sex offense.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier 1" offense:

1. 18 U.S.C. §1801 (video voyeurism of a minor),
2. 18 U.S.C. §2252 (receipt or possession of child pornography),
3. 18 U.S.C. §2252A (receipt or possession of child pornography),
4. 18 U.S.C. §2252B (misleading domain names on the internet),

5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
9. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
10. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 301. A., B. or C. shall be considered a “Tier 1” offense.

§10-302. Tier 2 Offenses

A. Muscogee (Creek) Nation Offenses. Any of the following sex offenses in Title 14, Chapter 2, shall be a “Tier 2” offense:

1. §2-323. Sex trafficking of children or by force, fraud, or coercion
2. §2-326. Sexual abuse of a minor or ward
3. §2-327. Abusive sexual contact, where the victim is 13 years of age or older
4. §2-341. Sexual exploitation of children
5. §2-342. Selling or buying of children
6. §2-343. Certain activities relating to material involving the sexual exploitation of minors.
7. §2-344. Certain activities relating to material constituting or containing child pornography
8. §2-350. Transportation of a minor for illegal sexual activity
9. §2-351. B. Coercion and enticement of a minor
10. §2-352. A. Transportation of minors to engage in illicit conduct

B. Recidivism and Felonies. Unless otherwise covered by Section 303., any second Tier 1 sex offense is a “Tier 2” offense.

C. Offenses Involving Minors. A “Tier 2” offense includes any sex offense that involves:

1. The use of minors in prostitution, including solicitations,
2. Enticing a minor to engage in criminal sexual activity,

3. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
4. The use of a minor in a sexual performance, or
5. The production or distribution of child pornography.

D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be a “Tier 2” offense:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
3. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
4. 18 U.S.C. §2251 (sexual exploitation of children),
5. 18 U.S.C. §2251A (selling or buying of children),
6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
10. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 302. A., B. or C. shall be a “Tier 2” offense.

§10-303. Tier 3 Offenses

A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a “Tier 2” sex offense, or has previously become a “Tier 2” sex offender, is a “Tier 3” offense.

B. Muscogee (Creek) Nation Offenses. A “Tier 3” offense includes any sex offense in Title 14, Chapter 2, Sections 2-319 (kidnapping), 2-324 (aggravated sexual abuse), 2-325 (sexual abuse), and where the victim is 12 years of age or younger, 2-327 (abusive sexual contact).

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be a “Tier 3” offense:

1. 18 U.S.C. §2241 (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse), or
3. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 303. A., B. or C. shall be considered a “Tier 3” offense.

SUBCHAPTER 4. REQUIRED INFORMATION

§10-401. General Requirements

A. Duties. A sex offender covered by this Code who is required to register with the tribe pursuant to Subchapter 5. shall provide all of the information detailed in this Chapter to the Lighthouse.

B. Digitization. All information obtained under this Code shall be, at a minimum, maintained by the Lighthouse in a digitized format.

C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Lighthouse and shall be in a form capable of electronic transmission.

D. Preservation. The Lighthouse shall preserve this information for one year after the offender’s registration period ends or the death of the sex offender.

§10-402. Criminal History

Criminal History.

- A. The date of all arrests,
- B. The date of all convictions,
- C. The sex offender’s status of parole, probation, or supervised release,
- D. The sex offender’s registration status, and
- E. Any outstanding arrest warrants.

§10-403. Date of Birth

Date of Birth.

- A. The sex offender's actual date of birth,
- B. Any other date of birth used by the sex offender, and
- C. The source of information for each date of birth.

§10-404. DNA Sample

A. DNA. Unless the sex offender's deoxyribonucleic acid (DNA) profile is already contained in the Combined DNA Index System (CODIS) or another jurisdiction has taken a sample for submission to CODIS, the sex offender shall permit the Lighthorse to obtain a sample of his or her DNA.

B. CODIS. If not already submitted, any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

C. The Lighthorse shall insure that a DNA profile of every sex offender registered with the Muscogee (Creek) Nation is entered into CODIS within a practical time.

§10-405. Driver's Licenses, Identification Cards, Passports, and Immigration Documents

A. Driver's License. all of the sex offender's valid driver's licenses issued by any jurisdiction.

B. Identification Cards. any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.

C. Passports. any passports used by the sex offender.

D. Immigration Documents. any and all immigration documents.

§10-406. Employment Information

A. Employment. The following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

- 1. The name of the sex offender's employer, including the names of supervisors,

2. The address of the sex offender's employer, including the company headquarters and the work location of the sex offender, and
3. As much similar information as is available related to any temporary, transient or day labor employment.

§10-407. Biometric Data

Finger prints and palm prints and any other biometric data of the sex offender deemed useful by the Lighthouse.

Biometric Data means methods for uniquely recognizing humans based upon one or more intrinsic physical or behavioral traits.

§10-408. Internet Identifiers

A. Internet Names. The following information related to the sex offender's internet related activity:

1. Any and all email addresses used by the sex offender,
2. Any and all Instant Message addresses and identifiers,
3. Any and all other designations or monikers used for self identification in internet communications or postings, and
4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings

B. The sex offender shall permit the Lighthouse to examine any computer, cellular telephone, or other communications device for compliance with this Section and any terms of probation.

§10-409. Name

Name. The following information related to the sex offender's name:

- A. The sex offender's full given name, and legal name if different,
- B. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
- C. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

§10-410. Phone Numbers

Phone Numbers. The following information related to the sex offender's telephone numbers:

- A. Any and all land line telephone numbers,
- B. Any and all cellular telephone numbers, and
- C. Any other communication devices and their identifiers.

§10-411. Picture

Photograph. Whenever a sex offender appears in person, the Lighthouse may record such digital images of the sex offender as are deemed useful for identification. This may include a front and side face portrait and images of distinctive scars or tattoos.

§10-412. Physical Description

Physical Description. an accurate description of the sex offender as follows:

- A. A physical description,
- B. A general description of the sex offender's physical appearance or characteristics, and
- C. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

§10-413. Governmental Licensing Information

Professional Licenses. All licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a sport, trade, profession, or business. The sex offender shall produce such licenses to be copied by the Lighthouse as requested.

§10-414. Residence Address

Address. The following information related to the sex offender's residence:

- A. The address of each residence at which the sex offender resides or will reside, and
- B. Any location or description of an area that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.
- C. A description of all occupants residing with the person registering, including: name, date of birth, gender, relation to the person registering, and how long the occupant has resided there.

§10-415. School

School Location. The following information related to the sex offender's school:

- A. The address of each school where the sex offender is or will be a student, and
- B. The name of each school where the sex offender is or will be a student.

§10-416. Social Security Number

Social Security.

- A. A valid social security number for the sex offender, and
- B. Any social security number the sex offender has used in the past, valid or otherwise.

§10-417. Temporary Lodging and Travel

Lodging Information. The following information when the sex offender will be absent from his residence for three days or more:

- A. Identifying information of the temporary lodging locations including addresses and names of the owner (or trade name if a business) and other residents of the dwelling, and
- B. The dates the sex offender will be staying at each temporary lodging location.
- C. Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than seven days, the Lighthouse shall be informed and shall immediately provide this information to INTERPOL.

§10-418. Offense Information

Offense Information. The citation and text of each provision of law defining the criminal conviction(s) for which the sex offender is registered.

§10-419. Vehicle Information

Detailed Information. The following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

- A. License plate numbers,
- B. Registration numbers or identifiers,
- C. General description of the vehicle to include color, make, model, and year,

- D. Notation of any modifications deemed significant to the Lighthorse,
- E. Current photographs of the vehicle as deemed significant by the Lighthorse, and
- F. Any permanent or frequent location where any such vehicle is kept.

SUBCHAPTER 5. REGISTRATION

§10-501. Where Registration Is Required

A. Jurisdiction of Conviction. A sex offender must initially register with the Lighthorse if the sex offender was convicted by the Muscogee (Creek) Nation Court of a covered sex offense regardless of the sex offender's actual or intended residency.

B. Jurisdiction of Incarceration. A sex offender must register with the Lighthorse if the sex offender is incarcerated by the Nation while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

C. Jurisdiction of Residence. A sex offender must register with the Lighthorse if the sex offender resides within lands subject to the jurisdiction of the Nation, including Housing Division properties.

D. Jurisdiction of Employment. A sex offender must register with the Lighthorse if he or she is employed by the Nation in any capacity at any location or otherwise is employed within lands subject to the jurisdiction of the tribe.

E. Jurisdiction of School Attendance. A sex offender must register with the Lighthorse if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Nation or operated by the Nation.

F. Jurisdiction of Visiting. A sex offender must register with the Lighthorse if he or she is visiting the Nation within lands subject to the jurisdiction of the tribe.

§10-502. Timing of Registration

A. Timing. A sex offender required to register with the tribe under this Code shall do so in the following timeframe:

1. The sex offender must register within 24 hours after meeting the provisions of Section 501. A. or B.; and
2. 72 hours before meeting the provisions of Section 501., C., D., E. or F., a sex offender must appear in person to register with Lighthorse.

B. Duties of Lighthorse. The Lighthorse shall have policies and procedures in place within 90 days of enactment of this Code and ensure the following:

1. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,
2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
3. That the sex offender is registered, and
4. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, student or visitor status.

§10-503. Retractive Registration

A. Retroactive Registration. The following three categories of sex offenders whose sex offense convictions pre-date this Code are subject to the registration and updating requirements of this Code:

1. Sex offenders incarcerated or under the supervision of the Nation, whether for a covered sex offense or other crime,
2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and
3. Sex offenders reentering the justice system due to conviction for any crime under Title 14 of the Muscogee (Creek) Nation Code.

B. Timing of Recapture. The Lighthorse shall ensure recapture of the sex offenders listed in Section 503. A. within the following timeframe to be calculated from the date of passage of this Code:

1. For "Tier 1" sex offenders, 1 year,
2. For "Tier 2" sex offenders, 180 days, and
3. For "Tier 3" sex offenders, 90 days.

§10-504. Frequency, duration and reduction

A. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Lighthorse for purposes of verification and keeping their registration current in accordance with the following time frames:

1. For "Tier 1" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for the registration offense for a sex offender who is not incarcerated.
2. For "Tier 2" offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated

for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

3. For "Tier 3" offenders, once every 90 days for the rest of their lives.

B. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:

1. A "Tier 1" offender may have his or her period of registration terminated if he or she has maintained a clean record for 10 consecutive years;
2. A "Tier 3" offender may have his or her period of registration terminated if he or she was adjudicated delinquent of an offense as a juvenile that required "Tier 3" registration and he or she has maintained a clean record for 25 consecutive years.

C. Clean Record. For purposes of Section 420. B. a person has a clean record if:

1. He or she has not been convicted of any felony offense or other offense for which imprisonment for more than 1 year may be imposed by the Nation or the State of Oklahoma.
2. He or she has not been convicted of any sex offense,
3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
4. He or she has successfully completed an appropriate sex offender treatment program certified by the Nation, another jurisdiction, or by the Attorney General of the United States.

D. A person who is physically incapacitated and confined to a home, hospital, or nursing facility because of physical infirmity shall be excused from a personal appearance if they or a representative informs the Lighthouse of their location and condition and the Lighthouse are able to verify that information.

§10-505. Requirements

A. Photographs. At each in person verification, the sex offender shall permit the Lighthouse to take a photograph of the offender.

B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy and inform the Lighthouse of any changes.

C. Notification. If any new information or change in information is obtained at an in person verification, the Lighthouse shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

§10-506. Keeping Registration current

A. All sex offenders required to register in this jurisdiction shall appear in person at the designated Lighthorse office to update any changes to the information required by Subchapter 4. Such appearance shall be made before the change if the event should have been known by the offender in advance or within 72 hours following the time that the sex offender should know of the change.

B. Duties of Lighthorse. With regard to changes in a sex offender's registration information, the Lighthorse shall immediately notify:

1. All jurisdictions where a sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register, and
3. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Lighthorse shall also ensure this information is immediately updated on NSOR.

§10-507. Failure To Appear For Registration and Absconding

A. Failure to Appear. In the event a sex offender fails to register with the Nation as required by this Code, the Lighthorse shall immediately inform the jurisdiction that provided notification that the sex offender failed to appear for registration.

B. Absconded Sex Offenders. If the Lighthorse receives information that a sex offender has violated Section 504. (absconded), the Lighthorse shall investigate to determine if the sex offender has actually absconded.

1. In the event that the sex offender cannot be located or contacted, the Lighthorse shall ensure the tribal police and any other appropriate law enforcement agency is notified.
2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
3. If an absconded sex offender cannot be located or contacted then the Lighthorse shall take the following steps:
 - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
 - b. Notify the U.S. Marshals Service,

- c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
- d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
- e. Enter the sex offender into the National Crime Information Center Wanted Person File.

C. Failure to Register. In the event a sex offender who is required to register fails to do so or otherwise violates a registration requirement of this code, the Lighthouse shall take all appropriate follow-up measures including those outlined in Section 507. B.

SUBCHAPTER 6. PUBLIC SEX OFFENDER REGISTRY WEBSITE

§10-601. Website

A. Website. The Lighthouse shall use and maintain a public sex offender registry website.

B. Links. The registry website shall include links to sex offender safety and education resources.

C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

E. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.

F. Dru Sjodin National Sex Offender Public Website. The tribe shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

§10-602. Required and Prohibited Information

A. Required Information. The following information shall be made available to the public on the sex offender registry website:

1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
2. All sex offenses for which the sex offender has been convicted,
3. The sex offense(s) for which the offender is currently registered,
4. The address of the sex offender's employer(s),
5. The name of the sex offender including all aliases,
6. A current photograph of the sex offender,
7. A physical description of the sex offender,
8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
9. All addresses of schools attended by the sex offender, and
10. The sex offender's vehicle license plate number along with a description of the vehicle.

B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

1. Any arrest that did not result in conviction,
2. The sex offender's social security number,
3. Any travel and immigration documents,
4. The identity of the victim or any information that could lead to the victim, and
5. Internet identifiers required by the Lighthorse.

C. Witness Protection. For sex offenders who are under a witness protection program, the Lighthorse shall honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

D. the Lighthorse may maintain in confidence any other information or evidence relevant to the sex offender as they deem useful.

§10- 603. Community Notification

A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Lighthorse shall:

1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
2. Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not

limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.

3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a) when a sex offender registers or updates registration.

B. Community Notification. The Lighthorse shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the Nation, the Nation's public sex offender registry website is immediately updated,
2. The Nation's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

SUBCHAPTER 7. IMMUNITY

§10-701. No waiver of immunity

Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Muscogee (Creek) Nation, its departments, agencies, employees, or agents.

§10-702. Good faith

Any person acting in good faith under this Title shall be immune from any civil liability arising out of such actions.

§10-703.

Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in this Code.

SUBCHAPTER 8 CRIMINAL AND CIVIL SANCTIONS

§10-801. Criminal penalty. Unless otherwise provided:

- A. Criminal penalty. Unless otherwise provided:
 - 1. Violation of Subchapter 4 or §10-504. by omitting, falsifying, or failing to timely notify the Lighthouse of changing, required information shall be subject to a fine of up to \$2,500, 18 months imprisonment, or both.
 - 2. Violation of §§ 10-501. or 505. shall be subject to a fine of up to \$5,000, 36 months imprisonment, banishment, or all three.

§10-802. Civil Penalty

A. Each violation of a provision of this Code shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of a fine of up to \$10,000, forfeitures, civil contempt.

B. A civil action brought under this paragraph may be filed in the Muscogee (Creek) Nation Trial Court by the Nation or any person harmed by a person's violation of this Code.

§10-803. Sentencing

A. In cases where the person is required to register pursuant to this Chapter, where the individual is sentenced after the effective date of this Act, in addition to the other sentencing powers of the court, the court may prohibit the person from accessing or using any Internet social networking web site that has the potential or likelihood of allowing the sex offender to have contact with any minor. Violation of this provision shall be subject to a fine of up to \$2,500, 18 months imprisonment, or both.

B. When sentencing a sex offender under this Chapter, neither the court nor the prosecuting attorney shall be allowed to waive or exempt such person from the registration requirements of this Chapter.

§10-804. Hindrance of sex offender registration

- A. A person is guilty of a misdemeanor offense if they:
 - 1. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Title;
 - 2. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex

- offender about, or to arrest the sex offender for, noncompliance with the requirements of this Title; or
3. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

SUBCHAPTER 9 RESIDENCY RESTRICTION

§10-901.

A. It is unlawful for any person registered pursuant to this Code to reside, either temporarily or permanently, within a two-thousand-foot radius of any protected facility. Establishment of a day care center or park in the vicinity of the residence of a registered sex offender will not require the relocation of the sex offender or the sale of the property. On the effective date of this act, the distance indicated in this section shall be shortest distance between the property lines of the residence of the person to the nearest property line of the protected facility, irrespective of jurisdictional boundaries.

B. "Protected facility" means an educational institution or dormitory that includes a significant number of minors at the facility, playground or park that is established operated or supported in whole or in part by city, county, state, federal or tribal government, or licensed child care center.

C. This provision shall not apply to:

1. any person who owned 50% or more of any residential real estate and resided there for at least one year in the five years prior to the conviction of the person as a sex offender. This includes a mortgaged property but not a leasehold or contract for deed.
2. any nonprofit organization established and housing sex offenders prior to the effective date of this provision.
3. any registered sex offender residing in a hospital or other facility certified or licensed by the applicable government to provide medical services.

D. Any person willfully violating the provisions of this section by intentionally moving into any neighborhood or to any real estate or home within the prohibited distance shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00), or by imprisonment for a term of not less than one (1) year nor more than three (3) years, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of this section shall be punished by a fine not to exceed Three Thousand Dollars (\$3,000.00), or by imprisonment for a term of not less than three (3) years, or by banishment, or by all three.

SECTION TWO. EFFECTIVE DATE. This Act shall become effective at midnight, January 31, 2011.

ENACTED by the Muscogee (Creek) National Council on this **18th** day of **December 2010.**

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.

Roger Barnett, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of twenty-six members with **Twenty-Three** members attending this meeting on the **18th day of December 2010,** and that the above is in conformity with the provisions therein adopted by a vote of **22** in favor, **0** against, **0** abstentions, and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.

ShaRee Edmondson, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature this _____ day of _____, 2010, to the above Law, **NCA 10-211** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

A. D. Ellis, Principal Chief
Muscogee (Creek) Nation

